



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 34426556

Date: DEC. 9, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner is a gymnastics coach who seeks first preference immigrant classification as an individual of extraordinary ability in the athletics. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Beneficiary qualifies as an individual of extraordinary ability either as the recipient of a one-time achievement that is a major, internationally recognized award, or as someone who satisfied at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). Namely, the Petitioner claimed that he met the criteria at 8 C.F.R. § 204.5(h)(3)(ii)-(v) and (viii) and the Director determined that he did not meet any of these criteria. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we find that the Petitioner met the criterion at 8 C.F.R. § 204.5(h)(3)(iv) and we will therefore withdraw the Director's adverse determination on that issue pursuant to our discussion below. However, we will dismiss the appeal because the Petitioner did not establish that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(ii), (iii), and (v), and, therefore, did not meet the initial three required criteria.

The Petitioner also maintains on appeal that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(viii), which relates to a leading or critical role in a distinguished organization.<sup>1</sup> However, the Petitioner would not establish that he met three out of ten criteria even if he established that he meets the elements of this criterion. As such, we need not address this criterion, nor do we need to provide the type of

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<sup>1</sup> The Petitioner did not, either at the time of filing or subsequently, in response to the Director's request for evidence (RFE), include the criterion at 8 C.F.R. § 204.5(h)(3)(viii) as part of his eligibility claim. In the denial, however, the Director addressed this criterion, along with the four specifically claimed criteria, as part of the Petitioner's claim as an individual of extraordinary ability.

final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Accordingly, we will reserve these issues. See *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

## I. LAW

To qualify as a noncitizen with extraordinary ability, a petitioner must demonstrate that:

- They have “extraordinary ability in the sciences, arts, education, business, or athletics;”
- They seek to continue work in their field of expertise in the United States; and
- Their work would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. See *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); see also *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner is a former gymnast who transitioned to a career as a gymnastics coach after completing a coaching program in [REDACTED] in 2003. The Petitioner does not claim or submit evidence to show that he received a major, internationally recognized award. He must therefore provide evidence showing that he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i) – (x). The Petitioner claims that he meets the elements of five of these criteria, which are summarized below:

- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material about the Petitioner;
- (iv), Participation as a judge of the work of others;
- (v), Original contributions of major significance; and

- (viii), Performance in a leading or critical role for distinguished organizations or establishments.

#### A. Criterion at 8 C.F.R. § 204.5(h)(3)(iv)

The Director determined that the Petitioner did not satisfy any of the claimed criteria. We find, however, that the Petitioner provided sufficient evidence that he met the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(iv), which requires evidence that the Petitioner participated as a judge over the work of others in his field.

Here, the record contains evidence, such as a document titled [REDACTED] from the Tokyo Olympics that took place in July 2021. The Petitioner's name was listed as one of the [REDACTED] on the "Competition Officials" page of the results book. The record also contains the Petitioner's photo ID showing him as [REDACTED] Judge" at the 2014 Asian Championships. Therefore, contrary to the Director's determination, we find that the record contains sufficient evidence that the Petitioner participated as a judge over the work of others in his field, thereby meeting all elements of the criterion at 8 C.F.R. § 204.5(h)(3)(iv). As such, we will withdraw the Director's adverse determination regarding this criterion. *See* 6 USCIS Policy Manual, F.2(B)(1), <https://www.uscis.gov/policy-manual>.

#### B. Remaining Criteria

Notwithstanding our favorable determination concerning the criterion at 8 C.F.R. § 204.5(h)(3)(iv), the record supports the Director's adverse findings regarding the remaining criteria, which we will address below with the exception of the criterion at 8 C.F.R. § 204.5(h)(3)(viii), as explained earlier.

First, we will discuss the criterion at 8 C.F.R. § 204.5(h)(3)(ii), which pertains to membership in professional associations. To meet this criterion, the Petitioner must show that he is or was a member in an association in his field, that the association requires outstanding achievements of its members, and that this requirement is judged by national or international experts in the field.

In support of the initial petition, the Petitioner provided a translated letter and the corresponding foreign original from the president of the Gymnastics Federation of [REDACTED]. However, the record lacks a translator's certification attesting to the completeness and accuracy of this translation or the competency of the translator to translate from the foreign language into English, as required by the regulation at 8 C.F.R. § 103.2(b)(3). As such, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner's claims.

In response to the Director's RFE, the Petitioner provided a letter with a certified English translation from the General Secretary of the Kazakhstan Gymnastics Federation (KGF). The letter refers to the Petitioner's claimed position as president of the [REDACTED] but it does not specifically name an association in which the Petitioner is claimed to have held the listed position or adequately clarify that this committee is part of the KGF. Although the Petitioner provided a printout from the website of the KGF, the printout includes only the history and general information about the federation, but does not include information about the federation's members, other than its president; the Petitioner offered no formal documents from the federation identifying

him as a member. While we recognize an article in the record that was published in eng.gymnovosti.com in 2018 and refers to the Petitioner as president of the [REDACTED] KGF, as previously noted, it is unclear why the Petitioner has not provided primary evidence, such as documents generated by the KGF, as proof of his claimed membership. See 8 C.F.R. § 103.2(b)(2)(i).

On appeal, the Petitioner again highlights his claimed membership in KGF and his role as president of the [REDACTED]. However, as discussed above, the record lacks sufficient evidence of the Petitioner's membership and claimed role, nor does it show that outstanding achievements was a prerequisite for membership.

The record also contains the Petitioner's USA Gymnastics membership cards<sup>2</sup> as well as USA Gymnastics membership terms and conditions, and the Petitioner's corresponding membership requirements scorecard showing that he passed a background check and several fundamental safety training courses. The USA Gymnastics terms and conditions lists specific requirements for competitive coach members. Such requirements include completion of a "SafeSport Core/Refresher" course as well items listed on the Petitioner's requirements scorecard, which shows that he has met the listed requirements.

On appeal, the Petitioner continues to highlight his membership in USA Gymnastics, noting that the organization functions as the governing body for gymnastics in the United States. However, despite providing sufficient evidence showing that he satisfied the organization's membership requirements for competitive coaches, he offers no evidence that his membership in that organization is conditional upon a showing of his outstanding achievements, as required to satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(ii). And although the Petitioner also claims that he is a member of the U.S. Gymnastics Federation of Judges ("USAJ") as well as the Fédération Internationale de Gymnastique ("FIG"), the record does not contain sufficient evidence corroborating his claimed membership in either organization. Regarding his affiliation with the latter, the Petitioner provided printouts from FIG's website, including a page that offers general information about FIG and one page listing the Petitioner as a judge in one of its gymnastics events. The Petitioner did not, however, provide evidence that FIG membership is a prerequisite for participating as a judge at one of its events; nor does the record include evidence of FIG's membership requirements. As such, even if the Petitioner was a FIG member, he has not demonstrated that outstanding achievements is a prerequisite for the membership.

Likewise, the Petitioner has not provided evidence establishing USAJ's membership requirements, nor has he established that he has been a member of USAJ. And although the Petitioner claims on appeal that USAJ requires "deep understanding of the sport, expertise in judging, and adherence to the highest standards of fairness and professionalism," he has not provided evidence to show that these are official criteria of USAJ and if so, that such criteria satisfy the outstanding achievements element of the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

Given the evidentiary deficiencies discussed above, the Petitioner has not overcome the Director's adverse determination regarding this criterion.

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<sup>2</sup> The record contains two membership cards – one with an expiration date of July 31, 2023, and the other with an expiration date of July 31, 2024. It therefore appears likely that the Petitioner was a member in July 2023, when this petition was filed. See 8 C.F.R. § 103.2(b)(1) (requiring proof of eligibility at the time of filing).

Next, we will address the criterion at 8 C.F.R. § 204.5(h)(3)(iii), which requires evidence of published material about the Petitioner in professional or major trade publications or other major media and states that such evidence “shall include the title, date, and author of the material.” In denying the petition, the Director acknowledged the Petitioner’s submission of articles from various websites but determined that there was insufficient evidence that the articles were published in professional or major trade publications or other major media. The Director also named several articles that did not list an author or that were not substantially about the Petitioner.

On appeal, the Petitioner mentions a previously submitted article published in kazprvada.kz in 2015 and a 2016 article published in penzanews.ru. While the latter mentions the Petitioner as the coach of four Kazakhstani gymnasts, the 2015 article made no mention of the Petitioner at all, and neither article lists an author nor is either about the Petitioner. Although the Petitioner also claims that “the Kazakhstan sports portal mentioned him [the Petitioner] in 2013,” he does not provide the name of a specific article or specify the sports portal, nor does the record include a 2013 article matching the Petitioner’s description. The initial submissions also included an article from penza-press.ru, which did not include either a date or an author, and two articles from 2018 – one about an [REDACTED] championship listing the Petitioner among the judges in the event and the other about a male gymnast’s return to competitive gymnastics. While the latter 2018 article captures the Petitioner’s reaction to an athlete’s return to competitive gymnastics, none of these articles are about the Petitioner.

The Petitioner contends that it is not uncommon for online articles to be published without citing an author. However, the Petitioner must satisfy all elements of this criterion. As previously stated, the specific regulatory language states that any submitted articles “*shall* include the title, date, and author of the material.” 8 C.F.R. § 204.5(h)(3)(iii) (emphasis added). Thus, any article submitted without the required information is not sufficient to satisfy this criterion.

Although in response to the RFE the Petitioner provided additional articles along with rankings data for the respective publications, the dates of the articles show that they were published in 2024. Because this petition was filed in July 2023 and the regulations require each petitioner to establish eligibility at the time of filing, articles that were published after this petition’s filing, regardless of their content, would not be sufficient to establish eligibility. *See* 8 C.F.R. § 103.2(b)(1).

Given the evidentiary deficiencies discussed above, the Petitioner has not demonstrated that the articles he submitted, either in response to the RFE or at the time of filing, satisfy all elements of the criterion at 8 C.F.R. § 204.5(h)(3)(iii).

Lastly, we will address the criterion at 8 C.F.R. § 204.5(h)(3)(v), which requires evidence that the Petitioner made an original contribution of major significance.

Here, the Director acknowledged that the Petitioner submitted recommendation letters commending him for his ability and skillset and further recognized that support letters can be instrumental in discussing the nature of a contribution. The Director determined, however, that the Petitioner provided letters that did not specify an original contribution or discuss how the Petitioner contributed in a way that resulted in major significance in the field of gymnastics coaching.

On appeal, the Petitioner points to a previously submitted letter from Mr. [redacted] and lists Mr. [redacted] position title as [redacted]. The Petitioner contends that Mr. [redacted] letter “underscores the [P]etitioner’s exceptional experience as an international judge” and supports the Petitioner’s claim that he has made “significant impact as a [redacted] coach in Kazakhstan and his current leadership role at [redacted] in the United States.” The Petitioner also highlights the recommendation letter from Mr. [redacted] pointing out that the letter discusses the Petitioner’s “notable success” in developing talented gymnasts who go on to compete at “the highest levels.” However, neither the Petitioner’s professional experience nor his success in the field of coaching gymnastics, factors that are highlighted in these recommendation letters, satisfies the original contribution element of this criterion.

Regardless, the Petitioner claims that he has developed “innovative training techniques and coaching philosophy” that have resulted in fewer injuries and have “propelled teams and individuals to victory.” The Petitioner broadly references “objective documentary evidence” in the record, such as “support letters from experts,” as proof of his claim that “people throughout the field currently consider [his] work important” and of major significance. The Petitioner does not, however, point to a specific letter or expert testimony that supports his claims. And we note that most of the recommendation letters in the record are from the parents of children the Petitioner had previously coached and who offered general praise about the Petitioner’s coaching style. For instance, one parent’s letter remarked on the Petitioner’s “comprehensive approach to training athletes” while another discussed the Petitioner’s “patience and humor” in overcoming his child’s fear. Although there are also two letters from former students who discussed the Petitioner’s coaching method, the record contains no evidence that the method was an original contribution or that the contribution, even if original, is of major significance in the field of gymnastics coaching.

In sum, the Petitioner has not demonstrated that he has made an original contribution that is of major significance in his field, and he therefore has not satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(v).

### C. Reserved Issues

As previously noted, the Petitioner also asserts that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(viii), which relates to a petitioner’s performance in a leading or critical role for a distinguished organization. However, given the deficiencies described above, we need not determine whether the Petitioner meets the requirements of this criterion, and we will reserve this issue. *See INS v. Bagamasbad*, 429 U.S. at 25-26.

### III. CONCLUSION

The Petitioner has not shown that he met either a one-time award, or three of ten initial criteria. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); see also section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and that he is one of the small percentage who have risen to the very top of the field of endeavor. See section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

**ORDER:** The appeal is dismissed.